

Employment Standards Administration, Labor

§ 722.113

to review such request. Each State law submitted shall be reviewed in light of the specific standards and criteria set forth below.

CRITERIA: STANDARDS OF COVERAGE, ELIGIBILITY

§ 722.110 Coverage generally.

The following §§ 722.111–722.114 describe the individuals who are eligible to claim benefits for total disability or death due to pneumoconiosis under the Act. In order that a State workmen's compensation law be deemed by the Secretary to provide adequate coverage for total disability or death due to pneumoconiosis, such State law shall insure that such individuals shall be entitled to receive benefits under conditions in accordance with those described below.

§ 722.111 Miner.

(a) An individual shall be entitled to receive benefits for total disability due to pneumoconiosis if he is a miner as defined in this section and if such individual is totally disabled due to pneumoconiosis (see §§ 722.117–722.120).

(b) Such individual shall be entitled to receive benefits until his death or until such disability ceases.

(c) For purposes of this part an individual is a miner if he is or was employed in a coal mine.

(d) For purposes of this part, "Coal mine" means an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used in, or to be used in, or resulting from the work of extracting in such area bituminous coal, lignite, or anthracite, from its natural deposits in the earth by any means or method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities.

(e) Any State workmen's compensation law which does not separately define miner or coal miner shall be deemed adequate for purposes of this section if such law contains a definition or use of the terms employee, worker, or any other related term which is sufficiently broad to encom-

pass all individuals contemplated by the term miner as defined in this section.

§ 722.112 Widow, surviving divorced wife.

(a) An individual shall be entitled to claim for and receive benefits as the widow or surviving divorced wife of a deceased miner if:

(1) Such individual is not married and is the "widow" of such miner as defined in section 402(e) of the Act; and

(2) Such miner's death or total disability at time of death was due to pneumoconiosis (which, for purposes of the Act, includes any death of a miner who was totally disabled by pneumoconiosis or was receiving benefits for such disability at the time of his death).

(b) A widow or surviving divorced wife shall be entitled to receive benefits until she remarries, or dies, or her entitlement otherwise ceases.

§ 722.113 Child.

(a) An individual shall be entitled to claim for and receive benefits if:

(1) Such individual is a child, as defined in section 402(g) of the Act (including a stepchild) of a deceased miner or of the widow of a miner; and if

(2) Such individual was dependent upon the deceased miner or widow for his support; and if

(3) Such deceased parent,

(i) If a miner, was receiving pneumoconiosis benefits at the time of his death, or his death was due to pneumoconiosis, or at the time of his death was totally disabled by pneumoconiosis; or

(ii) If a widow, was receiving pneumoconiosis benefits at the time of her death.

(b) A child or stepchild shall be entitled to receive benefits until one of the following events first occurs:

(1) The child dies;

(2) The child marries;

(3) The child attains age 18, unless

(i) He is a "full time" student as defined in section 202(a)(7) of the Social Security Act, or a "student" as defined in section 8101(7) of title 5, United States Code, in which case such child's

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or stepchild's eligibility is extended until he reaches age 23; or unless

(ii) He is under a disability as defined in section 223(d) of the Social Security Act and such disability began before he attained age 18 (see 202(d)(1)(B)(ii) of the Social Security Act).

(c) A child or stepchild is not entitled to claim benefits for any month for which a widow of a miner establishes entitlement to benefits.

§ 722.114 Parents, brothers, or sisters.

(a) An individual shall be entitled to claim for and receive benefits if:

(1) Such individual is the parent, brother, or sister of a deceased miner; and if

(2) Such individual, for not less than 1 year prior to the miner's death, was living in the same household as the miner and was totally dependent on the miner for support; and if

(3) The deceased miner was entitled to benefits at the time of his death, or his death is determined to have been due to pneumoconiosis, or at the time of his death was totally disabled by pneumoconiosis; and,

(4) In the case of a parent, if the deceased miner was not survived by a widow or child at the time of his death; and,

(5) In the case of a brother or sister, if the deceased miner was not survived by a widow, child or parent at the time of his death; and,

(6) In the case of a brother, he also is under 18 years of age unless he is a full-time student or under a disability as described in § 722.113(b)(3) in which case his eligibility shall be extended as is appropriate.

(b) No benefits to a sister or brother shall be payable for any month beginning with the month in which he or she receives support from his or her spouse, or marries.

(c) The individuals described in this section shall be eligible to claim for or receive benefits until such time as the requirements for eligibility cease.

CRITERIA: CLAIMS FOR BENEFITS

§ 722.115 Claims generally.

In order to assure that a State workmen's compensation law will provide adequate coverage for total disability

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or death due to pneumoconiosis, such law shall contain or shall be implemented by available rules and regulations which establish a comprehensive and viable scheme for the filing and processing of claims. If filing and processing procedures in any State are substantially informal, such State shall include in its application to be included on the Secretary's list, a full description of such State's filing and processing procedures, copies of any material disseminated to individuals to assist them in pursuing a claim, and a full description, including exemplary cases, of the time periods required by such State to fully process such claims. No State workmen's compensation law shall be included on the Secretary's list if it appears that any class of claimants shall be subject to inordinate delays, unnecessarily protracted proceedings, unnecessarily difficult requirements of proof, or other unwarranted difficulties in the pursuit of a claim.

§ 722.116 Time limitations on filing claims.

(a) No State workmen's compensation law shall be deemed to provide adequate coverage for total disability or death due to pneumoconiosis unless the determination of claims filed pursuant to it shall be permitted:

(1) In the case of claims for disability benefits, if filed within 3 years of the date of the discovery of total disability due to pneumoconiosis; or

(2) In the case of claims for death benefits, if filed within 3 years of the date of such death;

(3) And in the case of any claim for benefits predicated upon the presumption contained in section 411(c)(4) of part B of title IV of the Act (see § 722.119);

(i) If in the case of total disability due to pneumoconiosis it is filed within 3 years from the date of last exposed employment in a coal mine; or

(ii) If in the case of death from a respiratory or pulmonary impairment for which benefits would be payable under section 411(c)(4) of the Act, incurred as a result of employment in a coal mine, it is filed within 15 years from the date of last exposed employment in a coal mine.